IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Civil Application No.1146 of 2006
in
Civil Application No.837 of 2006
in

Writ Petition No.417 of 2006

Milind Parshuram Bhaledar ..Applicant

vs.

Mrs.Chitra @ Varsha Milind Bhaledar ..Respondent

Shri R.D.Suryavanshi for Applicant.
Shri N.V.Gangal with Smt.Shilpa Joshi for respondent.

CORAM: S.B.MHASE J.
21st April, 2006

P.C.

1. Heard the learned Counsel.

2. This is an application for modification of the order dated 18th March, 2006 passed by this Court in Civil Application no.837 of 2006 in Writ Petition No. 417 of 2006. By the said order in view of the statement made by the applicant showing his readiness and willingness to deposit the amount of Rs.40,000/- as per order dated 17th February, 2005, four weeks further time was extended and further the respondent wife was permitted to withdraw the said amount.

3. Writ Petition no.417 of 2006 has been filed by the petitioner challenging the order passed by the II Joint Civil Judge, Jr.Dn.,Solapur on 16th November, 2005 in

Reg.Darkhast No.256 of 2004 directing the judgment debtor/petitioner to deposit the amount of Rs.58,057.50 within one month from the date of order towards the satisfaction of present execution petition and on failure he is ordered to be detained in civil prison for a period of two months on depositing subsistence allowance by the Decree Holder. Thus, it is to be noted that in Hindu Marriage Petition No.50 of 1988 the decree was passed on 21st August, 1989 for maintenance amount and since the said maintenance amount was/is not deposited from 10th September, 1982, after hearing the petitioner judgment debtor, the Court had passed the impugned order. The said order is challenged by filing the writ petition. On 17th February, 2006 Rule was granted by this Court. Since this Court found that there is an arguable question interim stay in terms of prayer clause (c) was granted subject to condition that the petitioner deposits in this Court the sum of Rs.58,000/-within a period of four weeks. Having found that the order is not executed, it is further directed that the order should not be executed for a further period of four weeks to enable the petitioner to deposit the amount. It is further made clear that if the amount is not deposited by the petitioner, then the respondent is at liberty to apply after six weeks. It appears that after having obtained this order the amount was not deposited by the petitioner within a period of four weeks as stipulated in the order. Therefore, Civil Application No.837 of 2006 was filed by the petitioner making a prayer that further 8 weeks time may be granted

to deposit the remaining amount of 18,000/- pursuant to the order dated 17th February, 2006 passed in Writ Petition No.417 of 2006. It is pertinent to note that in the said civil application it is represented to the Court that the petitioner is ready to deposit the sum Rs.40,000/- pursuant to order dated 17th February, 2005 and, therefore, a statement was made before this Court to that effect and further time was extended to deposit the balance amount of Rs.18,000/- by four weeks. With this order the application was adjourned for four weeks. Surprisingly, inspite of the fact that the statement is made before this Court as reflected in the order referred to above the amount of Rs.40,000/- has not been deposited in this Court. Not only that the further amount of Rs.18,000/- is also not deposited in this Court and/or in the Trial Court. Instead of that Civil Application No.1146 of 2006 is filed seeking modification of the order dated 18th March, 2006 to the effect that the respondent wife may not be permitted to withdraw the amount of Rs.40,000/- The facts referred to above are self explanatory about the conduct of the petitioner. Here is a petitioner who has not deposited the amount of maintenance inspite of decree being passed in the year 1989 and even though appropriate orders for recovery of the same and on failure to deposit to detain him in civil prison was passed against him has failed to deposit the same. On the contrary, those orders he had got stayed from this Court by making a statement that the amount will be deposited but it was not deposited. Second time it was

also represented to this Court that the amount of Rs.40,000/- is collected and he is going to deposit and this Court granted time of four weeks. This Court believed the statement and granted time but inspite of that the amount of Rs. 40,000/- is also not deposited. All this conduct only shows that the petitioner is interested in protraction and is taking undue benefit of the process of law and exploiting the sympathy shown by this Court to the petitioner. This reflects upon the conduct of the petitioner and this Court cannot forget the fact that the amount is of maintenance of the wife who is trying to recover it from 1989. If this Court is helpless to recover such amount for such a long period the wife like the respondent is likely to loose absolute faith in the judicial process and, therefore, all these circumstances refrain this Court from granting the Civil Application No.1146 of 2006 as also Civil Application No.837 of 2006. This Court has equally noted that as stated above the orders have not been obeyed and statements made to this Court have disobeyed by the petitioner. Interim order passed by this Court in the writ petition is also hereby vacated and the respondent wife is at liberty to proceed with the execution petition which is pending before the subordinate Court.

4. Civil Application disposed of accordingly.

(S.B.MHASE J.)